

**Letter of Findings: 01-20221066
Indiana Individual Income Tax
For the Year 2020**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual failed to prove that the Department incorrectly issued a proposed assessment.

ISSUE

I. Individual Income Tax - Reciprocal Agreement.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-3-2-2; IC § 6-8.1-5-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); Income Tax Information Bulletin 28 (November 2016), [20161228-IR-045160560NRA](#).

Taxpayer protests the imposition of Indiana individual income tax.

STATEMENT OF FACTS

Taxpayer filed his "Protest Submission Form" indicating that he was protesting individual income tax and that he was requesting a "Final determination without a hearing." In so doing, as the Protest Submission Form notes, Taxpayer was forgoing an administrative hearing and asking, "the Department to make its decision based on the written protest and documentation (if any) the taxpayer presents along with the protest, and waives the right to a hearing."

Taxpayer's submitted protest consisted of the following: (1) a copy of the Department's "Notice of Proposed Assessment" dated October 6, 2021; (2) a copy from a page of his 2020 Ohio tax return; and (3) a brief, three sentence, explanation of the protest. Additional facts will be provided as necessary below.

I. Individual Income Tax - Reciprocal Agreement.

DISCUSSION

The Department issued a proposed assessment for income tax for the year 2020. Taxpayer filed a protest, stating that he now knows to file his taxes for Indiana and not Ohio.

As a threshold issue, it is Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "[t]he notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014).

Indiana imposes an adjusted gross income tax on all residents. IC § 6-3-2-1(a). Taxpayer's Indiana income is determined by starting with the federal adjusted gross income and making certain adjustments. IC § 6-3-1-3.5(a). IC § 6-3-2-2(a) specifically outlines what is income derived from Indiana sources and subject to Indiana income

tax. For Indiana income tax purposes, the presumption is that the taxpayers properly and correctly file their federal income tax returns as required pursuant to the Internal Revenue Code.

Taxpayer's protest states in full: "I reside in Indiana but worked in [O]hio starting [A]pril 2020[.] [W]hen filing taxes [I] filed [O]hio state tax and paid \$799.00 return in May 2021[.] [I] know [sic] know to file only [I]ndiana not [O]hio." In other words, Taxpayer concedes that he is an Indiana resident and that he incorrectly filed his 2020 income tax return.

Income Tax Information Bulletin 28 (November 2016), [20161228-IR-045160560NRA](#), which covers the year 2020, notes the following, in relevant part, about reciprocal agreements that Indiana has entered into with five other states:

Five states have a reciprocal agreement with the state of Indiana. They are Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin. All salaries, wages, tips, and commissions earned in these states by an Indiana resident must be reported as if they were earned in Indiana. A credit cannot be taken for any state taxes withheld by or paid to any of these states in connection with income from salaries, wages, tips, and commissions. *If taxes have been withheld or paid to any of these states, a claim for refund should be filed with that state by filing that particular state's income tax form for nonresidents.*

Residents of Kentucky, Michigan, Ohio, Pennsylvania, and Wisconsin who have Indiana income will report and pay state income tax on that income to their state of residence.
(*Emphasis added*).

Thus Taxpayer, as an Indiana resident, should have filed a 2020 Indiana income tax return for all salary, wages, tips, and commissions earned in Ohio as if the Ohio income was earned in Indiana. And, as provided in Income Tax Information Bulletin 28, Taxpayer's remedy, if any, lies outside of Indiana.

FINDING

Taxpayer's protest is denied.

June 29, 2022

Posted: 04/26/2023 by Legislative Services Agency
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